oxidized, depositing a second layer of a dielectric material comprising Ta_2O_5 on said first layer of said dielectric material, oxidizing said second layer of said dielectric material, crystallizing said second layer of said dielectric material, and depositing an upper layer electrode on said second layer of said dielectric material.

Please cancel claims 73 and 77-79.

Please amend claims 74-76 as follows:

74.(Amended) A method as claimed in claim 1 wherein said high dielectric constant oxide dielectric material is selected from the group consisting of Ta_2O_5 and $Ba_xSr_{(1-x)}TiO_3$.

75.(Amended) A method as claimed in claim 1 wherein said conductive oxide electrode is selected from the group consisting of RuO_x and IrO_x.

76.(Amended) A method as claimed in claim 1 wherein said upper layer electrode is selected from the group consisting of RuO_x and IrO_x.

REMARKS

In the first office action, claims 1-6, 15, 22-30, 37-42, 45-49, 73-79, and 100-105 were rejected under 35 U.S.C. 102(e) as being anticipated by Kunitomo et al., U.S. Patent No. 6,235,572. Although the rejection could also have been made under §102(a), under either paragraph of the statute, the rejection is not well taken. The Examiner asserts that Kunitomo et al. disclose the claimed method of forming a capacitor including the step of oxidizing the conductive oxide electrode and the first layer of high dielectric constant oxide dielectric material under oxidizing conditions. However, Kunitomo teaches that the oxidizing step is carried out such that the lower electrodes 54 are not oxidized. See col. 18, lines 24-27 and col. 19, lines 15-27. Thus, Kunitomo et al. does not teach oxidation of both the conductive oxide electrode *and* a first layer of high dielectric constant oxide dielectric material as recited in independent claims 1, 15, 28 (as amended), 40, and 100.